IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4987 of 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PG TEACHERS ASSOCIATION - Petitioner(s)
Versus
BHAVANGAR UNIVERSITY & 1 - Respondent(s)

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Appearance :
M/S ANAND ADVOCATES for Petitioner(s) : 1,
MRS VD NANAVATI for Respondent(s) : 1,
RULE SERVED for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 10/01/2007

ORAL JUDGMENT

By way of this petition under Article 226 of the Constitution of India, the petitioner, post graduate teachers' Association of Bhavnagar university for and on behalf of post graduate teachers of the respondent

university have prayed for an appropriate writ, direction and/or order directing the respondents to grant the benefit of conveyance allowance given to the members of the non teaching staff working in the three colleges run by the respondent university. It is also further prayed for an appropriate order to grant the benefit of the judgment and order passed by this Court passed in Special Civil Application No.5262 of 1986 by which this Court passed an order directing the respondents to grant the benefit of conveyance allowance to the non teaching staff working with the three colleges run by the university.

It is the contention on behalf of the petitioner that petitioner is an association of Post Graduate Teachers of the respondent University and the said university runs three colleges namely Shamaldas Arts College, Sir P.P. Institute of Science and M.J. College of Commerce. It is the contention on behalf of the petitioner that all the post graduate teachers were as such the employees of the Saurashtra University and they were paid monthly conveyance allowance and some of them were being paid the monthly conveyance allowance, however, on bifurcation of the Saurashtra University, Bhavnagar University was created and some of the post graduate teachers who were working with the saurashtra

University were considered as employees of Bhavanagar University. It is the contention on behalf of the petitioner that non-teaching staff i.e. Class III and Class IV employees of the respondent university approached this Court by way of Special Civil Application NO. 5262 of 1986 and by judgment and order dated 26.2.1994, the learned single Judge of this Court has allowed the said Special Civil Application and has directed the respondents to grant the benefit of monthly conveyance allowance to all the class III and class IV employees of the respondent university. It is, therefore, submitted that the post graduate teachers of the respondent university are also entitled to the benefit of the monthly conveyance allowance. It is further submitted that by subsequent resolution, the benefit of transportation allowance has been granted by the State Government but that will be w.e.f. 1-4-1998, therefore, the dispute at present would be for the period between 1978 to 1998. Shri Dipak Raval, learned advocate appearing on behalf of the petitioner has submitted that in view of the judgment and order passed by the learned single Judge of this Court passed in Special Civil Application No. 5262 of 1986, there is no reason not to give the benefit of monthly conveyance allowance to the post graduate teachers working with the Bhavnagar

University. Therefore, it is requested to allow the present Special Civil Application.

Heard. Ms Vidhi Shodhan, learned advocate appearing for Mrs V.D. Nanavati, learned advocate for the respondent No. 1 University and Shri Maulik Nanavati, learned AGP appearing on behalf of the respondent No. 2, State Government. The learned advocate appearing on behalf of the respondent No. 1 has submitted that so far as the respondent No. 1 Bhavnagar University is concerned they are implementing authority and it is ultimately for the State Government to release the grant and on that basis the payment of conveyance allowance can be made. Shri Maulik Nanavati, learned AGP is not in a position to dispute that the dispute which has been raised in the present Special Civil Application is not covered by the judgment and order passed by the learned Single Judge of this Court passed in Special Civil Application No. 5262 of 1986.

The identical question came to be considered by this Court in Special Civil Application No. 5262 of 1986 and the learned single Judge of this Court has allowed the said Special Civil Application directing the respondents to grant the benefit of monthly conveyance allowance to

class III and class IV employees (non-teaching staff) of the respondent university. It is also not disputed that even w.e.f. 1.4.1998, the State Government has passed a resolution to grant the benefit of transportation allowance to all the employees. Under the circumstances, dispute is for the period between 1978 to 1998. It appears that some of the post graduate teachers were working with the Saurashtra University and they were getting the benefit of the monthly conveyance allowance. However, on bifurcation of the Surashtra University, they became the employees of the Bhavnagar university and, therefore, they are denied the benefit of monthly conveyance allowance. Some of the employees have joined the service of Bhavnagar university after the bifurcation. However, when other employees of the Bhavnagar University i.e. class III and class IV(non-teaching) employees inclusive of the teachers of the aforesaid three colleges are granted the benefit of monthly conveyance allowance, there is no reason not to grant the said benefit to the post graduate teachers. Under the circumstances and for the reasons stated in the judgment delivered in Special Civil Application No. 5262 of 1986, the present petition is also required to be allowed.

For the reasons stated above, petition succeeds. It is held that the post graduate teachers of the Bhavnagar University are entitled to the benefit of the monthly conveyance allowance. The respondents are directed to calculated the same and to pay the same to the concerned post graduate teachers of the respondent university within a period of six months from today. Rule is made absolute to the aforesaid extent. No costs.

(M.R.SHAH,J.)

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